

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Casimiro Venegas,

Petitioner

v.

Warden Williams, *et al.*,

Respondents

Case No.: 2:23-cv-00298-JAD-BNW

**Order Denying Application to Proceed *In*
Forma Pauperis and Motion for
Appointment of Counsel**

[ECF Nos. 9, 10]

In his *pro se* 28 U.S.C. § 2254 petition for writ of habeas corpus, Casimiro Venegas challenges his Clark County, Nevada convictions on 13 counts including attempted murder, robbery, and battery with use of a deadly weapon,¹ all stemming from the robbery of a 7-Eleven store in Las Vegas and, shortly after, the robbery and beating of a man in his home.² The state district court sentenced Venegas to 22–55 years.³

Though Venegas applies to proceed *in forma pauperis*, he paid the filing fee, so I deny his application as moot.⁴ He also moves for the court to appointment him a free attorney to handle his case.⁵ There is no constitutional right to appointed counsel for a federal habeas corpus proceeding.⁶ An indigent petitioner may request appointed counsel to pursue that relief.⁷

¹ ECF No. 7; Eighth Judicial District Court Case No. C-16-313118-1.

² *See, e.g.*, ECF No. 11 at 1-2.

³ ECF No. 7 at 2.

⁴ ECF No. 9; *see also* ECF No. 3.

⁵ ECF No. 10.

⁶ *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Luna v. Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336–37 (2007)).


⁷ 18 U.S.C. § 3006A(a)(2)(B).

1 The decision to appoint counsel is generally discretionary.⁸ However, counsel must be
2 appointed if the complexities of the case are such that denial of counsel would amount to a denial
3 of due process, and where the petitioner is a person of such limited education as to be incapable
4 of fairly presenting his claims.⁹ I find that while Venegas is serving a lengthy sentence, he sets
5 forth his claims clearly and they do not appear to be particularly complex. So I deny the motion
6 for counsel.

7 IT IS THEREFORE ORDERED that petitioner's application to proceed *in forma*
8 *pauperis* (ECF No. 9) is **DENIED as moot**.

9 IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (ECF
10 No. 10) is **DENIED**.

11 The court notes that the respondents have moved to dismiss Venegas's habeas claims as
12 duplicative, conclusory, and not cognizable in federal habeas. ECF No. 11. IT IS FURTHER
13 ORDERED that **petitioner must file his response (if any) to that motion to dismiss (ECF No.**
14 **11) by September 15, 2023.**

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16 
U.S. District Judge Jennifer A. Dorsey
August 1, 2023

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23 ⁸ *Id.* (authorizing appointed counsel when “the interests of justice so require”).

⁹ *LaMere v. Risley*, 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United States*, 623 F.2d 54, 61 (9th Cir. 1980).